

**EXHIBIT A TO  
SUPPORTING  
DECLARATION OF  
STEVEN KIM**





SUM-100

**SUMMONS**  
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):

STEVEN KIM, an individual

YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

SECOND MEASURE, INC., a Delaware corporation

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)  
**ENDORSED FILED**  
SAN MATEO COUNTY

JUN - 4 2015

Clerk of the Superior Court  
By MADELINE MASTERSON  
DEPUTY CLERK

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): Superior Court of California

County of San Mateo - Southern Branch  
400 County Center, Redwood City, CA 94063

CASE NO. **534100**  
(Número de caso)

**BY FAX**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Nitoj P. Singh, Dhillon Law Group, Inc., 177 Post St. - Suite 700, San Francisco, CA 94108, (415) 433-1700

DATE: **JUN - 4 2015**  
(Fecha)

Clerk, by MADELINE MASTERSON, Deputy  
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

**NOTICE TO THE PERSON SERVED:** You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
 

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4. ☐ by personal delivery on (date):

1 HARMEET K. DHILLON (SBN: 207873)  
2 harmeet@dhillonlaw.com  
3 NITOJ P. SINGH (SBN: 265005)  
4 nsingh@dhillonlaw.com  
5 DHILLON LAW GROUP INC.  
6 177 Post Street, Suite 700  
7 San Francisco, California 94108  
8 Telephone: (415) 433-1700  
9 Facsimile: (415) 520-6593

10 Attorneys for Second Measure, Inc.

**ENDORSED FILED**  
**SAN MATEO COUNTY**

JUN - 4 2015

Clerk of the Superior Court  
By MADELINE MASTERSON  
DEPUTY CLERK

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF SAN MATEO - UNLIMITED JURISDICTION**

13 SECOND MEASURE, INC., a Delaware  
14 corporation,

15 Plaintiff,

16 v.

17 STEVEN KIM, an individual,

18 Defendant,

Case Number:

**CIV 584100**  
**COMPLAINT**

1. Declaratory Relief
2. Breach of Consulting Agreement

**BY FAX**

1 Second Measure, Inc., (“Second Measure” or the “Company”) by and through its attorneys,  
 2 the Dhillon Law Group Inc., files this Complaint against Steven Kim (“Mr. Kim” or “Defendant”).  
 3 Upon information and belief, Second Measure alleges as follows:

#### 4 THE PARTIES

5 1. Plaintiff Second Measure is a Delaware corporation in good standing. Second Measure  
 6 maintains its principle place of business in San Mateo County, California. Second Measure was  
 7 founded by Michael Babineau (“Mr. Babineau”) and Lillian Chou (“Ms. Chou”).

8 2. Defendant Mr. Kim is an individual who, upon information and belief, resides in  
 9 Dallas, Texas.

#### 10 JURISDICTION AND VENUE

11 3. This Court has personal jurisdiction over Defendant, and venue is proper in this Court  
 12 pursuant to Code of Civil Procedure § 395(a), because Defendant resides outside California.

#### 13 FACTUAL BACKGROUND

14 4. Second Measure is a young startup company incorporated in January 2015 by Mr.  
 15 Babineau and Ms. Chou to build tools and services designed to leverage consumer spending data for  
 16 the ultimate benefit of hedge funds and other large investors. Mr. Babineau and Ms. Chou are IT  
 17 engineering and data analytics experts that leverage their expertise to make Second Measure’s  
 18 offerings possible.

19 5. Defendant Mr. Kim seeks one-half of the equity of Second Measure. Mr. Kim  
 20 demands the sizeable stake in the Company even though he did not write any of the computer code  
 21 that makes Second Measure’s products and services possible, did not provide any design or  
 22 engineering input on Second Measure’s products and services, and has not shared any significant  
 23 technical or business contributions with Mr. Babineau and Ms. Chou in relation to any enterprise for  
 24 more than a year.

25 6. Mr. Kim apparently believes he is entitled to half of the Company because he  
 26 allegedly brought an idea to Mr. Babineau nearly two years ago, and now believes that idea matured  
 27 into Second Measure. However, it is clear that Mr. Kim has not contributed even marginally towards  
 28 Second Measure, and was not responsible for the original idea that may have led to the formation of

1 Second Measure.

2 7. In or around July 2013, Mr. Kim introduced Mr. Babineau to Mr. Zafar Jafri. Mr. Jafri,  
3 a financial research analyst, had access to large consumer spending datasets and sought the help of an  
4 engineer to help analyze and obtain some actionable intelligence from the same. Mr. Jafri, then with  
5 hedge fund Tiger Global Management, LLC, sought to trade directly based off trends and information  
6 gleaned from the consumer spending datasets. Mr. Kim, having learned what Mr. Jafri was trying to  
7 accomplish, suggested that Mr. Babineau help Mr. Jafri flesh out some of the technical issues and  
8 possible solutions with Mr. Jafri's concept. Messrs. Jafri and Babineau did engage in such discussions  
9 in July 2013.

10 8. Mr. Kim apparently thought Mr. Jafri's idea was a good one, and in September 2013  
11 discussed the possibility of forming a business based on the same with Mr. Babineau. Mr. Babineau  
12 thought the concept warranted at least an examination, and began to evaluate the possibility of  
13 forming a business on the concept when Messrs. Babineau and Kim gained access to a dataset in  
14 September 2013 from Yodlee, a company that, *inter alia*, sells such datasets.<sup>1</sup> Given that it was Mr.  
15 Jafri's unoriginal idea that Messrs. Kim and Babineau were evaluating, Mr. Kim did not ask Mr.  
16 Babineau to sign a non-disclosure agreement, nor did they agree to form a company or assign any  
17 intellectual property to the company.

18 9. Further evidencing that Mr. Kim's purported "idea" was neither conceived by him, nor  
19 unique, is that there are multiple companies currently offering services and products based on  
20 consumer spending data besides Yodlee, including, 7Park Data, 1010data, MasterCard, and First  
21 Data. The availability and use of consumer spending datasets is widely known and generally available  
22 to finance and banking professionals.

23 10. Mr. Babineau immediately realized that the evaluation would benefit from a data  
24 engineer and recruited Ms. Chou to assist in October 2013, within days of their gaining access to a  
25 consumer spending dataset. From then on, Messrs. Babineau and Kim, and Ms. Chou worked  
26 together to evaluate the possibility of forming a business built on consumer spending dataset analytics  
27 and services. At no point beginning in September 2013, or any time thereafter, did the Messrs.

28 <sup>1</sup> In reality, only Mr. Babineau worked with the dataset. Mr. Kim did not have the technical skillset to work directly with the data.



1 Babineau and Kim, and Ms. Chou come to any agreement to form a definite business together, come  
2 to any agreement as to equity split in any business, or agree to assign any intellectual property they  
3 may have created to any business. In fact, none of Messrs. Babineau and Kim, or Ms. Chou left their  
4 then respective full-time jobs, and none of them then committed to working together and forming a  
5 definite business.

6 11. Multiple communications between Messrs. Babineau and Kim, and Ms. Chou,  
7 including correspondence in June and September 2014, confirm that there was no agreement as to any  
8 equity split between the parties as to any company.

9 12. In March 2014, Mr. Kim terminated his involvement with the business evaluation as a  
10 result of two events: 1) Messrs. Babineau and Kim, and Ms. Chou were unable to come to an  
11 agreement with Yodlee as to continued use of its datasets, and 2) Mr. Kim moved from California to  
12 Texas to accept a position with Surveyor Capital. In correspondence during that time, Mr. Kim  
13 conveyed that he would likely not be able to continue to work with Mr. Babineau and Ms. Chou in  
14 evaluating the business concept. Indeed, Mr. Kim may have recognized that working with Mr.  
15 Babineau and Ms. Chou on such an investment-related project might present a conflict of interest for  
16 Mr. Kim with his employment with Surveyor Capital.

17 13. From March 2014 onwards, Mr. Kim showed no interest in continuing to evaluate the  
18 business concept, or to work with Mr. Babineau and Ms. Chou to form a definite business built on the  
19 concept they were evaluating. In August 2014, when Mr. Babineau and Ms. Chou actually agreed to  
20 form a definite business built upon consumer spending datasets, and analytics thereof, Mr. Kim made  
21 clear that he was unwilling to match Mr. Babineau and Ms. Chou's commitment to the contemplated  
22 enterprise. Instead, Mr. Kim elected to stay with Surveyor Capital, rather than join Mr. Babineau and  
23 Ms. Chou on a full-time basis.

24 14. In late-September 2014, having agreed to form a new business together, and a business  
25 generally for the first time, Mr. Babineau and Ms. Chou decided to start anew with respect to all  
26 computer code and design. They discarded all code and design developed prior to September 2014,  
27 including any code that may have been developed in consultation with Mr. Kim, or on which Mr.  
28 Kim may have provided design and guidance feedback. Mr. Babineau and Ms. Chou were diligent in



wiping any contribution Mr. Kim may have provided from their records before starting their new venture.

15. It was Mr. Babineau and Ms. Chou's newly formed September 2014 business, wiped clean of any input from Mr. Kim, and wholly unrelated to Mr. Kim, that eventually evolved into Second Measure. Given the distinct genesis of Second Measure separate from any of Mr. Kim's purported contributions, Second Measure contends that Mr. Kim is not entitled to any portion of Second Measure. Mr. Kim is not a founder or shareholder of Second Measure.

16. In or around January 2015, Second Measure invited Mr. Kim to join the company as a consultant. Ultimately, Mr. Babineau, on behalf of Second Measure, came to an oral consulting agreement (the "Consulting Agreement") with Mr. Kim that same month. The Consulting Agreement provided that Mr. Kim would advise the Company as to strategy, deals, customers, competitors, and data sources, stemming from his expertise in the financial space. Mr. Kim was also to provide Second Measure with introductions to potential customers, partners, investors, and other interested persons. In exchange for the services agreed upon, the Company agreed to provide Mr. Kim with a total of 8% of the then-authorized stock of Second Measure, with 2% fully vested, and the remaining 6% to vest over the next four years, with the understanding that the equity interest provided by the Consulting Agreement was the only source of Mr. Kim's equity interest in Second Measure.

17. Despite the oral Consulting Agreement, Mr. Kim failed to provide the consulting services required of him. As such, Mr. Kim never earned the initial 2% interest in Second Measure, or the subsequent 6% that was to vest over the four years from the date of the Consulting Agreement.

18. Mr. Kim now contends that he is entitled to an unspecified, but "substantial," equity interest in the Company. While Mr. Kim previously contended that he owned 50% of the Company, in a March 11, 2015 letter from counsel, he has apparently wavered from that position, and now only claims an unspecified, and unsubstantiated, interest in the Company. A true and correct copy of Mr. Kim's counsel's March 11, 2015 letter is attached hereto as Exhibit 1.

19. Second Measure wholly rejects that Mr. Kim has any equity interest in Second Measure, or that the Company's directors and officers owe Mr. Kim any fiduciary duty.

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**FIRST CAUSE OF ACTION**

**Declaratory Relief**

20. Second Measure incorporates every allegation contained in each and every one of the above paragraphs, as though set forth fully herein.

21. An actual, present, and justifiable controversy has arisen between the parties to this Action regarding whether Mr. Kim is entitled to an equity interest in Second Measure.

22. On the one hand, Second Measure contends that Mr. Kim does not have any equity interest in Second Measure, and that the Company's directors and officers do not owe Mr. Kim any fiduciary duty.

23. On the other hand, Mr. Kim contends that he has a substantial equity interest in Second Measure, and that the Company's directors and officers owe him a fiduciary duty.

24. This Court is vested with the power to declare and adjudicate the rights and legal relationships of the parties to this Action with reference to the issues raised by this Complaint.

25. Second Measure desires a judicial determination of the rights and obligations of each of the parties to this Action with respect to the matters set forth in preceding paragraphs.

26. A judicial declaration is necessary and appropriate at this time under the circumstances, so that Second Measure and Mr. Kim may ascertain their rights and duties as specified above.

**SECOND CAUSE OF ACTION**

**Breach of Consulting Agreement**

27. Second Measure incorporates every allegation contained in each and every one of the above paragraphs, as though set forth fully herein.

28. Second Measure entered into a valid oral Consulting Agreement, pursuant to which Mr. Kim was to provide consulting services to Second Measure in exchange for an equity interest in Second Measure.

29. Mr. Kim breached the Consulting Agreement by failing to provide any of the consulting services he agreed to provide.

30. Second Measure performed all obligations required of it under the Consulting

1 Agreement that were not excused or discharged by Mr. Kim's conduct.

2 31. As a result of the breach, Second Measure has been damaged in amount to be proven  
3 at trial.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Second Measure prays for judgment against Mr. Kim as follows:

6 1. For a judicial declaration stating:

7 a. that Mr. Kim does not have any equity interest in Second Measure; and

8 b. that the Company's directors and officers do not owe Mr. Kim any fiduciary  
9 duty.

10 2. For all damages legally and/or proximately caused to Second Measure by Mr. Kim in  
11 an amount to be proven at trial;

12 3. For costs of suit incurred herein; and

13 4. For such other and further relief as the Court deems just and proper.

14 Date: June 4, 2015

DHILLON LAW GROUP INC.

15  
16 By: 

Nitoj P. Singh

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18 Attorneys for Second Measure Inc.  
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Suite 800  
505 Montgomery Street  
San Francisco, CA 94111-6533

**Don Buder**  
415.276.6593 tel  
415.276.6599 fax  
donbuder@dwt.com

March 11, 2015

**PERSONAL & CONFIDENTIAL**  
**VIA EMAIL**

Michael Babineau  
Second Measure, Inc.

**Re: Second Measure, Inc./Steven Kim**

Dear Mr. Babineau:

This law firm has been retained by Steven Kim to represent him in connection with his equity interest in Second Measure, Inc. (the "Company").

Please be advised that Mr. Kim maintains that he has a substantial equity interest in the Company, despite the fact that the Company has not issued stock certificates to him evidencing that equity interest.

Please consult with Company counsel before making any representations or warranties regarding the outstanding capital stock of the Company, in light of Mr. Kim's equity interest claim.

This letter will also advise you that, in your capacity as an officer and director of the Company, you have a fiduciary duty to Mr. Kim in his capacity as a Company shareholder. Any additional capital stock must be issued for consideration equal to fair market value. Executive compensation should not exceed market rates for comparably situated companies. Corporate formalities and filing requirements should be complied with in every respect. Please advise Mr. Kim in writing in advance if and when the Company intends to issue additional securities.

Please let me know if you have any questions regarding this matter.

Sincerely,

DAVIS WRIGHT TREMAINE LLP

A handwritten signature in black ink, appearing to read 'D Buder', written over a horizontal line.

Don Buder

DB/hw

cc: Steven Kim (by email)  
Sanjay Nangia, Esq. (by email)

DWT 26366024v1 0050033-002393

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CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Nitaj P. Singh (SBN: 265005) Dhillon Law Group Inc. 177 Post Street - Suite 700 San Francisco, CA 94108 TELEPHONE NO.: 415.433.1700 FAX NO.: 415.520.6593 ATTORNEY FOR (Name): Second Measure, Inc.		FOR COURT USE ONLY  <b>ENDORSED FILED</b> <b>SAN MATEO COUNTY</b>  JUN - 4 2015  Clerk of the Superior Court By <b>MADELINE MASTERSON</b> DEPUTY CLERK  <b>CIV 534100</b>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Mateo STREET ADDRESS: 400 County Center MAILING ADDRESS: CITY AND ZIP CODE: Redwood City, CA 94063 BRANCH NAME: Southern Branch		
CASE NAME: Second Measure, Inc. v. Steven Kim		
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	<b>Complex Case Designation</b> <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
Items 1-6 below must be completed (see instructions on page 2).		CASE NUMBER: <b>CIV 534100</b>  JUDGE: DEPT:

1. Check one box below for the case type that best describes this case:		
<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (05) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input checked="" type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |  |  |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties   | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): Two
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015)

BY FAX

 Date: June 4, 2015  
 Nitaj P. Singh

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

## NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2



## NOTICE OF CASE MANAGEMENT CONFERENCE

Second Measure, Inc. **ENDORSED FILED**  
**SAN MATEO COUNTY**

Case No. **GIV 584100**

JUN - 4 2015

vs.  
Steven Kim,Clerk of the Superior Court  
By MADELINE MASTERSON  
DEPUTY CLERKDate: 10/16/15

Time 9:00 a.m.

Dept. \_\_\_\_\_ --on Tuesday &amp; Thursday

Dept. 21 --on Wednesday & Friday

You are hereby given notice of your Case Management Conference. The date, time and department have been written above.

1. In accordance with applicable California Rules of the Court and local Rules 2.3(d)1-4 and 2.3(m), you are hereby ordered to:

- a) Serve all named defendants and file proofs of service on those defendants with the court within 60-days of filing the complaint (CRC 201.7).
- b) Serve a copy of this notice, Case Management Statement and ADR Information Sheet on all named parties in this action.
- c) File and serve a completed Case Management Statement at least 15-days before the Case Management Conference [CRC 212(g)]. Failure to do so may result in monetary sanctions.
- d) Meet and confer, in person or by telephone, to consider each of the issues identified in CRC 212(f) no later than 30-days before the date set for the Case Management Conference.

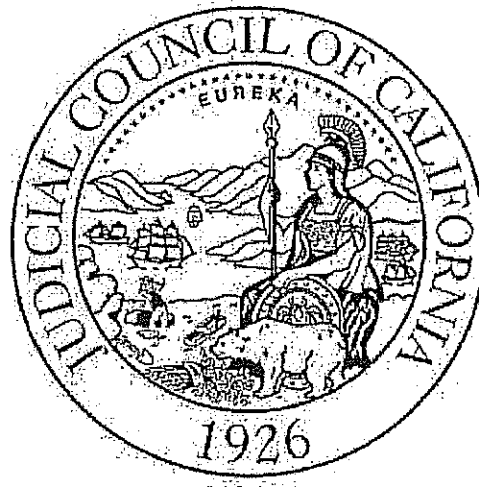
2. If you fail to follow the orders above, you are ordered to show cause why you should not be sanctioned. The Order to Show Cause hearing will be at the same time as the Case Management Conference hearing. Sanctions may include monetary, evidentiary or issue sanctions as well as striking pleadings and/or dismissal.
3. Continuances of Case Management Conferences are highly disfavored unless good cause is shown.
4. Parties may proceed to an appropriate dispute resolution process ("ADR") by filing a Stipulation to ADR and Proposed Order (see attached form). If plaintiff files a Stipulation to ADR and Proposed Order electing to proceed to judicial arbitration, the Case Management Conference will be taken off the court calendar and the case will be referred to the Arbitration Administrator. If plaintiffs and defendants file a completed stipulation to another ADR process (e.g., mediation) 10-days prior to the first scheduled Case Management Conference, the Case Management Conference will be continued for 90-days to allow parties time to complete their ADR session. The court will notify parties of their new Case Management Conference date.
5. If you have filed a default or a judgment has been entered, your case is not automatically taken off Case Management Conference Calendar. If "Does", "Roes," etc. are named in your complaint, they must be dismissed in order to close the case. If any party is in bankruptcy, the case is stayed only as to that named party.
6. You are further ordered to appear in person\* (or through your attorney of record) at the Case Management Conference noticed above. You must be thoroughly familiar with the case and fully authorized to proceed.
7. The Case Management judge will issue orders at the conclusion of the conference that may include:
  - a) Referring parties to voluntary ADR and setting an ADR completion date;
  - b) Dismissing or severing claims or parties;
  - c) Setting a trial date.
8. The Case Management judge may be the trial judge in this case.

For further information regarding case management policies and procedures, see the court's website at: [www.sanmateocourt.org](http://www.sanmateocourt.org)

\*Telephonic appearances at case management conferences are available by contacting CourtCall, LLC, an independent vendor, at least five business days prior to the scheduled conference (see attached CourtCall information).



## **ALTERNATIVE DISPUTE RESOLUTION IN CIVIL CASES**



## Civil Appropriate Dispute Resolution (ADR) Information Sheet

### Superior Court of California, San Mateo County

*Appropriate Dispute Resolution (ADR) is a way of solving legal problems without going to trial. All types of disputes can be resolved through ADR. The Court encourages you to use some form of ADR before you proceed to trial. The most popular form of ADR is mediation. The Multi-Option ADR Project can help you choose the option that is best for your case and refer you to an experienced ADR provider.*

#### What are the Advantages of Using ADR?

- ☞ **Faster** – Traditional litigation can take years to complete but ADR usually takes weeks or months.
- ☞ **Cheaper** – Parties can save on attorneys' fees and litigation costs.
- ☞ **More control & flexibility** – Parties choose the ADR process most appropriate for their case.
- ☞ **Cooperative & less stressful** – In mediation, parties cooperate to find a mutually agreeable solution to their dispute.

#### What are the Disadvantages of Using ADR?

- ☞ **You may go to Court anyway** – If you can't resolve your case using ADR, you may still have to spend time and money on your lawsuit.
- ☞ **Not free** – The neutrals charge fees (except in judicial arbitration), but you may qualify for financial aid.

#### Are There Different Kinds of ADR?

- ☞ **Mediation** – A neutral person (mediator) helps the parties communicate, clarify facts, identify legal issues, explore settlement options and agree on a solution that is acceptable to all sides.
- ☞ **Judicial Arbitration** – Is an informal hearing where a neutral person (arbitrator) reviews the evidence, hears arguments and makes a decision on your case. In non-binding judicial arbitration, parties have the right to reject the arbitrator's decision and proceed to trial. For more information regarding judicial arbitration, please see the attached sheet.
- ☞ **Binding Arbitration** – The parties agree ahead of time to accept the arbitrator's decision as final. Parties who choose binding arbitration give up their right to go to Court and their right to appeal the arbitrator's decision.
- ☞ **Neutral Evaluation** – A neutral person (evaluator) listens to the parties, asks them questions about their case, reviews evidence and may hear witness testimony. The evaluator helps the parties identify the most important legal issues in their case and gives them an analysis of the strengths and weaknesses of each side's case. Special neutral evaluation guidelines are available on the Court's website at [www.sanmateocourt.org/adr](http://www.sanmateocourt.org/adr).
- ☞ **Settlement Conference** – Although similar to mediation, the neutral (a judge) may take more control in encouraging parties to settle. Settlement conferences take place at the courthouse. All cases have a mandatory settlement conference approximately 2-3 weeks before the trial date.

### **How Does Voluntary Mediation/Neutral Evaluation Work in San Mateo County?**

- ☞ The person who files the lawsuit (the plaintiff) must include this ADR Information Sheet with the complaint when serving the defendants in the case.
- ☞ All the parties in your case will meet with a judge at your first Case Management Conference (CMC), which is scheduled within 120 days of the filing of the complaint. The judge will speak to you about your voluntary ADR options, encourage you to participate in ADR and ask you to meet with Court ADR staff.
- ☞ If you and the parties decide to use ADR, Local Rule 2.3(i)(3) states that you must file a *Stipulation and Order to ADR* with the Court Clerk's Office. This form lets the Court know both whom you have selected as your ADR neutral and the date of the ADR session.
- ☞ You and the other parties can find your own ADR neutral for the case or use a neutral who is on the Court's ADR Panel.
  - For a list of Court ADR neutrals and their resumes, visit the Court's website at [www.sanmateocourt.org/adr](http://www.sanmateocourt.org/adr). (Go to "Civil ADR Program," "Civil ADR Program Panelist List" and click on any provider's name.)
- ☞ If you decide to do ADR and file a *Stipulation and Order to ADR* at least 10 days before your **first** CMC, the Court will postpone (continue) your first CMC for 90 days to allow the parties time to resolve the case using ADR. The Clerk's Office will send you a notice with your new CMC date.
- ☞ Within 10 days of completing ADR, you and your lawyer (if you have one) must fill out either an Evaluation By Attorneys or Client Evaluation and mail or fax it to the ADR offices at: 400 County Center, Redwood City, CA 94063; (650) 599-1754 (fax).

### **Do I Have to Pay to Use ADR?**

- ☞ Yes. You and the other parties will pay the ADR neutral directly. However, you do not have to pay the Court for either judicial arbitration or for the mandatory settlement conference that is scheduled before your trial.
- ☞ If you expect to have difficulty paying the ADR provider's fee, ask the ADR Coordinator for a financial aid application. You will need to fill out this application to determine whether or not you qualify for financial assistance.

In San Mateo County, parties also can take their case to the community mediation organization, the Peninsula Conflict Resolution Center ("PCRC"), and have their case mediated by PCRC's panel of trained and experienced volunteer mediators. To learn more about programs and fees, contact PCRC's Manager of Mediation Programs at (650) 513-0330.

**For more information, visit the court website at [www.sanmateocourt.org/adr](http://www.sanmateocourt.org/adr)  
or contact the ADR Program: 400 County Center, Redwood City, CA 94063.  
Phone: (650) 599-1070, (650) 599-1073 and fax: (650) 599-1754**

*Judicial Arbitration, one of the available Appropriate Dispute Resolution (ADR) options, differs from other options in that it is usually court-ordered, unless the parties agree to it.*

### **What are the Advantages of Using Judicial Arbitration?**

- ☞ **Free** -Parties do not have to pay for the arbitrator's fee.
- ☞ **Fast** -Parties are usually given 120 days from the date of the Case Management Conference (CMC) to have their case heard by the appointed arbitrator.
- ☞ **Informal** -The hearing is conducted by an arbitrator who issues an award. (Arbitrators are usually attorneys who practice or have practiced in San Mateo County.)

### **What are the Disadvantages of Using Judicial Arbitration?**

- ☞ The award issued by the arbitrator is not always binding (unless the parties stipulated otherwise). If any party requests a trial within 30 days of the award, the award becomes void and the case continues on to trial.

### **How Does Judicial Arbitration Work in San Mateo County?**

- ☞ During your first CMC hearing, the judge may decide to order you to judicial arbitration. You will then receive instructions and a proposed list of arbitrators in the mail.
- ☞ Parties also may agree to judicial arbitration by filing a *Stipulation and Order to ADR* form at least 10 days before the first CMC. The CMC clerk will then vacate your CMC hearing and send the case to arbitration. The parties will receive instructions and a proposed list of arbitrators in the mail.
- ☞ Parties can stipulate (agree) to an arbitrator on the Court's Judicial Arbitration Panel list. Otherwise, proposed names of arbitrators will be sent to the parties.
  - For a list of arbitrators, their resumes, and other information, visit the Court's website at [www.sanmateocourt.org/adr](http://www.sanmateocourt.org/adr). (Go to "Judicial Arbitration Program," "Judicial Arbitration Panelist List" and click on the arbitrator's name. To view the arbitrators by subject matter, click on "Judicial Arbitration Panelists by Subject Matter.")
- ☞ After the arbitration hearing is held and the arbitrator issues an award, the parties have 30 days to turn down/reject the award by filing a Trial de Novo (unless they have stipulated that the award would be binding).
- ☞ If the parties reject the award and request a Trial de Novo, the Court will send out notices to the parties of the Mandatory Settlement Conference date and the trial date.
- ☞ Following your arbitration hearing, you will also receive an evaluation form to be filled out and returned to the Arbitration Administrator.

**For more information, visit the court website at [www.sanmateocourt.org/adr](http://www.sanmateocourt.org/adr) or contact Judicial Arbitration: 400 County Center, Redwood City, CA 94063. Phone: (650) 599-1070 or (650) 599-1073 and Fax: (650) 599-1754**

Attorney or Party without Attorney (Name, Address, Telephone, Fax, State Bar membership number):	Court Use Only
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO Hall of Justice and Records 400 County Center Redwood City, CA 94063-1655 (650) 363-4711	
Plaintiff(s):	Case number:
Defendant(s):	Current CMC Date:

### STIPULATION AND ORDER TO APPROPRIATE DISPUTE RESOLUTION

Plaintiff will file this stipulation with the Clerk's Office 10 days prior to or 3 weeks following the first Case Management Conference unless directed otherwise by the Court and ADR Director [*Local Rule 2.3(i)(3)*]. Please attach a Service List.

The parties hereby stipulate that all claims in this action shall be submitted to (select one):

- ☐ Voluntary Mediation
 ☐ Binding Arbitration (private)  
☐ Neutral Evaluation
 ☐ Settlement Conference (private)  
☐ Non-Binding Judicial Arbitration CCP 1141.12
 ☐ Summary Jury Trial
 ☐ Other: \_\_\_\_\_

Case Type: \_\_\_\_\_

Neutral's name and telephone number: \_\_\_\_\_ Date of session: \_\_\_\_\_

(Required for continuance of CMC except for non-binding judicial arbitration)

Identify by name the parties to attend ADR session: \_\_\_\_\_

#### Original Signatures

Type or print name of ☒ Party without attorney ☐ Attorney for  
☐ Plaintiff/Petitioner ☐ Defendant/Respondent/Contestant

\_\_\_\_\_  
 (Signature)  
 Attorney or Party without attorney

Type or print name of ☐ Party without attorney ☐ Attorney for  
☐ Plaintiff/Petitioner ☐ Defendant/Respondent/Contestant

\_\_\_\_\_  
 (Signature)  
 Attorney or Party without attorney

Type or print name of ☐ Party without attorney ☐ Attorney for  
☐ Plaintiff/Petitioner ☐ Defendant/Respondent/Contestant

\_\_\_\_\_  
 (Signature)  
 Attorney or Party without attorney

Type or print name of ☐ Party without attorney ☐ Attorney for  
☐ Plaintiff/Petitioner ☐ Defendant/Respondent/Contestant

\_\_\_\_\_  
 (Signature)  
 Attorney or Party without attorney

#### IT IS SO ORDERED:

Date: \_\_\_\_\_

\_\_\_\_\_  
 Judge of the Superior Court of San Mateo County

## **ADR Stipulation and Evaluation Instructions**

In accordance with *Local Rule 2.3(i)(3)*, all parties going to ADR must complete a Stipulation and Order to ADR and file it with the Clerk of the Superior Court. The Office of the Clerk is located at:

Clerk of the Superior Court, Civil Division  
Attention: Case Management Conference Clerk  
Superior Court of California, County of San Mateo  
400 County Center  
Redwood City, CA 94063-1655

There is no filing fee for filing the stipulation. An incomplete stipulation will be returned to the parties by the Clerk's Office. All stipulations must include the following:

- ☐ Original signatures for all attorneys (and/or parties in pro per);
- ☐ The name of the neutral;
- ☐ Date of the ADR session; and
- ☐ Service List (Counsel need not serve the stipulation on parties).

Parties mutually agree on a neutral and schedule ADR sessions directly with the neutral. If parties would like a copy of the court's Civil ADR Program Panelist List and information sheets on individual panelists, they may visit the court's website at [www.sanmateocourt.org/adr](http://www.sanmateocourt.org/adr).

### **If Filing the Stipulation Prior to an Initial Case Management Conference**

To stipulate to ADR prior to the initial case management conference, parties must file a completed stipulation at least 10 days before the scheduled case management conference. The clerk will send notice of a new case management conference date approximately 90 days from the current date to allow time for the ADR process to be completed.

### **If Filing Stipulation Following a Case Management Conference**

When parties come to an agreement at a case management conference to utilize ADR, they have 21 days from the date of the case management conference to file a Stipulation and Order to ADR with the court [*Local Rule 2.3(i)(3)*].

### **Post-ADR Session Evaluations**

*Local Rule 2.3(i)(5)* requires submission of post-ADR session evaluations within 10 days of completion of the ADR process. Evaluations are to be filled out by both attorneys and clients. A copy of the Evaluation By Attorneys and Client Evaluation are attached to the Civil ADR Program Panelist List or can be downloaded from the court's web site.

### **Non-Binding Judicial Arbitration**

Names and dates are not needed for stipulations to judicial arbitration. The Judicial Arbitration Administrator will send a list of names to parties once a stipulation has been submitted.

For further information regarding San Mateo Superior Court's Civil ADR and Judicial Arbitration Programs, visit the Court's website at [www.sanmateocourt.org/adr](http://www.sanmateocourt.org/adr) or contact the ADR offices at (650) 599-1070 or (650)599-1073.